

August 11, 2005

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 11th day of August 2005, at 8:00 P.M., and there were

PRESENT:           JOHN ABRAHAM, JR. MEMBER  
                      ANTHONY ESPOSITO, MEMBER  
                      RICHARD QUINN, MEMBER  
                      ARLIE SCHWAN, MEMBER  
                      ROBERT THILL, MEMBER

ABSENT:           WILLIAM MARYNIEWSKI, MEMBER  
                      JEFFREY LEHRBACH, CHAIRMAN

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                      LEONARD CAMPISANO, ASST. BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

In the absence of Chairman Lehrbach, a motion to appoint Mr. Quinn temporary chairman was made by Mr. Thill and seconded by Mr. Esposito.

The motion was duly put to a vote which resulted as follows:

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|-----------------|------------|
| MR. ABRAHAM     | VOTED YES  |
| MR. ESPOSITO    | VOTED YES  |
| MR. MARYNIEWSKI | WAS ABSENT |
| MR. QUINN       | VOTED YES  |
| MR. SCHWAN      | VOTED YES  |
| MR. THILL       | VOTED YES  |
| MR. LEHRBACH    | WAS ABSENT |

**PETITION OF DEBRA A. BENEDICK**

THE CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Debra Benedick, 1166 Penora Street, Depew, New York 14043 (Town of Lancaster) for one [1] variance for the purpose of constructing a 24 foot by 24 foot detached garage on premises owned by the petitioner at 1166 Penora Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster. The proposed garage is to be constructed three [3] feet from the north side yard lot line.

Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster requires a five foot north side yard lot line set back for an accessory structure. The petitioner therefore, requests a two [2] foot north side yard lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

|   |           |
|---|-----------|
| Debra Benedick, petitioner<br>1166 Penora Street<br>Depew, New York 14043 | Proponent |
|---|-----------|

|  |           |
|--|-----------|
| Mike Sebastino, contractor<br>135 Gunville Road<br>Lancaster, New York 14086 | Proponent |
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| Bob Smaczniak<br>1164 Penora Street<br>Depew, New York 14043 | Opponent |
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| Lois Spell<br>129 Proctor Avenue<br>Buffalo, New York 14215 | Opponent |
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|   |           |
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| Gary Siwek<br>1166 Penora Street<br>Depew, New York 14043 | Proponent |
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**IN THE MATTER OF THE PETITION OF DEBRA BENEDICK**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. SCHWAN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ABRAHAM  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Debra Benedick and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of August 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Zoning Board of Appeals has considered the following:

Whether an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

Whether there would be a detriment to nearby properties by the granting of the area variance relief sought.

If the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

If the requested area variance relief is substantial.

If the alleged difficulty is self created.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to construct a garage that is two [2] feet narrower.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**CONSIDERED.**

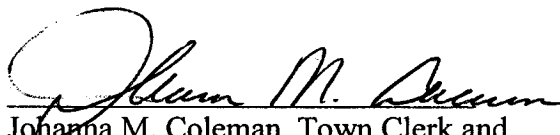
The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

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|-----------------|------------|
| MR. ABRAHAM     | VOTED YES  |
| MR. ESPOSITO    | VOTED NO   |
| MR. MARYNIEWSKI | WAS ABSENT |
| MR. QUINN       | VOTED NO   |
| MR. SCHWAN      | VOTED YES  |
| MR. THILL       | VOTED NO   |
| MR. LEHRBACH    | WAS ABSENT |

The resolution granting the variance was thereupon **DENIED.**

August 11, 2005

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:31 P.M.

Signed   
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: August 11, 2005